

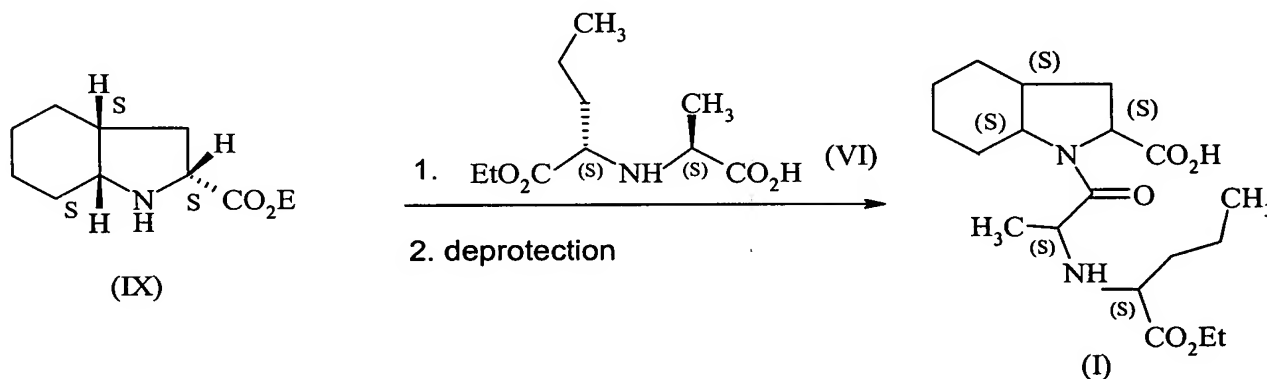
IN THE CLAIMS: See Listing of Claims. This listing will replace all prior versions of claims in the application.

REMARKS

The Applicants acknowledge the Examiner's comprehensive Office Action with appreciation. Claims 7-12 remain pending in the application. The Office raises a rejection under 35 USC § 102 as well as an obviousness-type double patenting rejection. The Office also acknowledges the Information Disclosure Statement filed with the filing papers of the instant application.

Claims 7-12 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 7-12 of co-pending application US Serial No. 10/582,419. With this Response and Amendment, the Applicants submit a Terminal Disclaimer, thereby obviating the rejection.

Claims 7-9 and 11 are rejected under 35 USC § 102(b) as being anticipated by Vincent, et al. It is the position of the Office that Vincent, et al. disclose a process for the synthesis of perindopril which involves reaction of a compound of formula (IX) (wherein E represents lower alkyl or benzyl) with a compound of formula (VI) in the presence of a catalyst for peptide synthesis, such as dicyclohexyldicarbodiimide in the presence of 1-hydroxybenzotriazole, followed by deprotection of the resulting compound to yield perindopril of formula (I):



It is the further position of the Office that Vincent, et al. disclose specific reaction conditions involving removal of the benzyl protecting group via catalytic hydrogenation. Therefore, the Office concludes that the process disclosed in Vincent, et al. anticipates the instantly claimed process which utilizes a compound of formula (IIa).

With the instant Amendment, the coupling agents recited in Claim 7 have been limited to (1,3-dimethylaminopropyl)-3-ethyl-carbodiimide hydrochloride / 1-hydroxybenzotriazole and propanephosphonic anhydride, which coupling agents are not disclosed in the Vincent, et al. reference. Thus the Applicants respectfully submit that the instantly claimed process, as amended, is not anticipated by the disclosure of the Vincent, et al. reference. Reconsideration and withdrawal of the anticipation rejection is respectfully requested.

Moreover, the Applicants also provide a Declaration by Dr. Thierry DUBUFFET, a scientist skilled in this particular art, which demonstrates the unexpected results associated with the instantly claimed process. Specifically, the Declarant provides comparative data which demonstrate that the instantly claimed process, which utilizes (1,3-dimethylaminopropyl)-3-ethyl-carbodiimide hydrochloride / 1-hydroxybenzotriazole or propanephosphonic anhydride as the coupling agent, provides perindopril of a significantly higher purity than the process disclosed in Vincent, et al., which utilizes dicyclohexylcarbodiimide/1-hydroxybenzotriazole as the coupling agent. These superior results could not have been predicted based on the disclosure of Vincent, et al. Therefore, the Applicants respectfully submit that the instantly claimed process is novel and non-obvious over the disclosure of the cited reference.

* * * * *

Accordingly, entry of present amendment and the DUBUFFET Declaration, reconsideration of all grounds of objection and rejection, withdrawal thereof, and passage of this application to issue are all hereby respectfully solicited.

It should be apparent that the undersigned agent has made an earnest effort to place this application into condition for immediate allowance. If she can be of assistance to the Examiner in the elimination of any possibly-outstanding insignificant impediment to an immediate allowance, the Examiner is respectfully invited to call her at her below-listed number for such purpose.

Allowance is solicited.

Respectfully submitted,

THE FIRM OF HUESCHEN AND SAGE

By: 
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Enclosure: DUBUFFET Declaration; Fee for One (1) Month Extension (Check No. 75421); Terminal Disclaimer and Fee (Check No. 75422) under 37 CFR § 1.20(d); Listing of Claims; and Postal Card Receipt

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THE COMMISSIONER IS HEREBY AUTHORIZED TO CHARGE ANY FURTHER OR ADDITIONAL FEES WHICH MAY BE REQUIRED (DUE TO OMISSION, DEFICIENCY, OR OTHERWISE), OR TO CREDIT ANY OVERPAYMENT, TO DEPOSIT ACCOUNT NO. 08,3220.